FISCAL NOTE

SB 2553 - HB 3605

February 9, 2008

SUMMARY OF BILL: Expands, from 1,000 feet to five miles, the protected area around schools, child care agencies, public libraries, recreational centers and parks relative to drug offenses. Requires drug offenses committed within five miles of such facilities to be punished one classification higher. Requires offenders convicted of prostitution, patronizing prostitution, promoting prostitution and aggravated prostitution offenses committed within five miles of schools, child care agencies, public libraries, recreational centers and parks to serve the minimum sentence imposed by the court or 60 days, whichever is longer.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - $148,317,800/Incarceration*

Assumptions:

- Currently, the penalty for drug offenses committed within 1,000 feet of schools, child care agencies, public libraries, recreational centers and parks are punished one classification higher, excluding a violation which constitutes a Class A felony.
- Currently, violations of prostitution and patronizing prostitution committed within one and one-half miles of a school are sentenced to incarceration of at least seven days and a minimum fine of $1,000. Violations of patronizing prostitution committed within 100 feet of a church are subject to the same penalties.
- During FY07, there were 803 offenders admitted to the Department of Correction (DOC) for Class B drug offenses, 1,989 offenders for Class C drug offenses, 410 offenders for Class D drug offenses, and 250 offenders for Class E drug offenses. During the same timeframe, there were 16 offenders admitted for promoting prostitution (Class E felony) and 13 offenders admitted for aggravated prostitution (Class C felony). This estimate assumes that 95 percent of these offenses were committed within five miles of schools, child care agencies, public libraries, recreational centers and parks.
- 763 offenders (803 x .95) will be sentenced for a Class A drug offense that previously would have been sentenced for a Class B drug offense and will serve an additional 3.6 years (an increase from 2.4 years to 6.0

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years) in the first year. According to DOC, the average operating cost per inmate per year for calendar year 2008 is $62.78.

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years, yielding a projected compound population growth of 13.6 percent over the next ten years. Population growth will result in 87 additional offenders in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 850 offenders serving an additional 3.6 years. The cost per inmate at 2.4 years is $55,032.95 ($62.78 x 876.60 days). The cost per inmate at 6.0 years is $137,582.37 ($62.78 x 2,191.50 days). The additional cost of increasing the average sentence length from 2.4 years to 6.0 years is $82,549.42 ($137,582.37 - $55,032.95). The total additional operating cost for 850 offenders in the tenth year is $70,167,007 ($82,549.42 x 850).
- 1,890 offenders (1,989 x .95) will be sentenced for a Class B drug offense that previously would have been sentenced for a Class C drug offense and will serve an additional 1.5 years (an increase from 0.9 years to 2.4 years) in the first year. Population growth will result in 216 additional offenders in the tenth year as a result of this bill. The maximum cost in the tenth year is based on 2,106 offenders serving an additional 1.5 years. The cost per inmate at 0.9 years is $20,637.67 ($62.78 x 328.73 days). The cost per inmate at 2.4 years is $55,032.95 ($62.78 x 876.60 days). The additional cost of increasing the average sentence length from 0.9 years to 2.4 years is $34,395.28 ($55,032.95 - $20,637.67). The total additional operating cost for 2,106 offenders in the tenth year is $72,436,459.68 ($34,395.28 x 2,106).
- 390 offenders (410 x .95) will be sentenced for a Class C drug offense that previously would have been sentenced for a Class D drug offense and will serve an additional 0.3 years (an increase from 0.6 years to 0.9 years) in the first year. Population growth will result in 45 additional offenders in the tenth year as a result of this bill. The maximum cost in the tenth year is based on 435 offenders serving an additional 0.3 years. The cost per inmate at 0.6 years is $13,758.24 ($62.78 x 219.15 days). The cost per inmate at 0.9 years is $20,637.67 ($62.78 x 328.73 days). The additional cost of increasing the average sentence length from 0.6 years to 0.9 years is $6,879.43 ($20,637.67 - $13,758.24). The total additional operating cost for 435 offenders in the tenth year is $2,992,552.05 ($6,879.43 x 435).
- 238 offenders (250 x .95) will be sentenced for a Class D drug offense that previously would have been sentenced for a Class E drug offense and will serve an additional 0.3 years (an increase from 0.3 years to 0.6 years) in the first year. Population growth will result in 27 additional offenders in the tenth year as a result of this bill. The maximum cost in the tenth year is based on 265 offenders serving an additional 0.3 years. The cost per inmate at 0.3 years is $6,879.43 ($62.78 x 109.58 days).
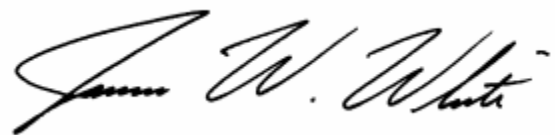
The cost per inmate at 0.6 years is $13,758.24 ($62.78 x 219.15 days). The additional cost of increasing the average sentence length from 0.3 years to 0.6 years is $6,878.81 ($13,758.24 - $6,879.43). The total additional operating cost for 265 offenders in the tenth year is $1,822,884.65 ($6,878.81 x 265).

- Fifteen (16 x .95) offenders will be convicted of a Class E felony of promoting prostitution and will serve a minimum one-year sentence (an increase from 0.3 years to 1.0 years) in the first year. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 17 offenders serving an additional 0.7 years. The cost per inmate at 0.3 years is $6,879.43 ($62.78 x 109.58 days). The cost per inmate at 1.0 years is $22,930.40 ($62.78 x 365.25 days). The additional cost of increasing the average sentence length from 0.3 years to 1.0 years is $16,050.97 ($22,930.40 - $6,879.43). The total additional operating cost for 17 offenders in the tenth year is $272,866.49 ($16,050.97 x 17).

- Twelve (13 x .95) offenders will be convicted of a Class C felony of aggravated prostitution and will serve a minimum three-year sentence (an increase from 0.9 years to 3.0 years) in the first year. Population growth will result in one additional offender in the tenth year. The maximum cost in the tenth year is based on 13 offenders serving an additional 2.1 years. The cost per inmate at 0.9 years is $20,637.67 ($62.78 x 328.73 days). The cost per inmate at 3.0 years is $68,791.19 ($62.78 x 1,095.75 days). The additional cost of increasing the average sentence length is $48,153.52 ($68,791.19 - $20,637.67. The total additional operating cost for 13 offenders in the tenth year is $625,995.76 ($48,153.52 x 13).

*Tennessee Code Annotated, Section 9-4-210, requires that: *For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White, Executive Director

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